

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

CALVIN J. ZAR, SR.

PLAINTIFF

V.

CIVIL ACTION NO.1:07CV133 LTS-RHW

STATE FARM FIRE AND CASUALTY COMPANY
and MICHAEL W. MEYERS, ET AL.

DEFENDANTS

ORDER DENYING MOTION TO CONSOLIDATE

The Court has before it the motion [5] of the plaintiff to consolidate eleven cases for purposes of determining subject matter jurisdiction. All of these cases have been removed from state court, and all of them have pending motions to remand. Defendants oppose this proposed consolidation.

I have looked at the record in these cases, and I find that the issues raised by the plaintiff's motions to remand involve issues of fact that are very particularized. The key factual issues on these motions to remand are not susceptible to resolution en masse. The merits of these motions to remand depend on the particular allegations of the complaint and the supporting documentation. Remand is required when the allegations of the complaint, given the liberal reading required in cases where removal is based on allegations of misjoinder or fraudulent joinder, state a valid legal theory of recovery against the non-diverse party based on the facts established by the pleadings (and in some cases by affidavits and other evidentiary materials). These important determinations can only be made individually and after careful consideration of the merits of each motion.

Accordingly, it is hereby

ORDERED

That the plaintiff's Motion [5] To Consolidate is **DENIED**; and

That the defendants' Motion [6] for an Extension of Time To Respond to the Motion To Consolidate [5] is hereby **GRANTED**.

SO ORDERED this 23rd day of May, 2007.

s/ L. T. Senter, Jr.
L. T. SENTER, JR.
SENIOR JUDGE